HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5823 of 2007

Dated:22.03.2007

Between:

G.Bhanuchander.

…Petitioner

and

Commissioner of Endowments and another.

…Respondents

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.5823 of 2007

ORDER:

The petitioner's mother was running a Fast Food Centre in Shivalayam Street of Yadagirigutta in the property belonging to the second respondent-Temple. The petitioner continued the business. As the lease was about to be expired on 30.11.2006 he made applications on 31.03.2006 and 15.11.2006 to the second respondent seeking extension/renewal of lease. His contention was that immediately after taking lease on 01.12.2005, his mother expired in a fire accident (due to explosion of stove), and that he did not run the business though he was paying the rents regularly. His contention is also that the lease in respect of Gundupalli Narasimha for shop No.22 was extended by the authorities, but the petitioner's request was not acceded, and the second respondent issued public auction notice dated 09.03.2007 proposing to conduct auction to lease out the shop along with other properties. Assailing the said auction notice, the present Writ Petition is filed.

Learned Counsel for the petitioner contends that the action of the second respondent in extending the lease in the case of others and denying the same to the petitioner is discriminatory and violative of Article 14 of the Constitution of India. Secondly, he submits that the

petitioner paid rent, though he was not running the shop due to the death of his mother, and therefore, the case of the petitioner ought to have been considered by the second respondent, and without considering the request for renewal, conducting auction is illegal. **Opposing** the Writ Petition, the learned Assistant Government Pleader for Endowments submits that as per the Andhra Pradesh Charitable & Hindu Religious Institutions & Endowments Immovable Properties and other rights (Other than Agricultural lands) leases and Licenses Rules, 2003 (for short 'the Rules'), the immovable properties belonging to the Temple and all rights and licenses can only be given by conducting public auction, and therefore, the auction notice is valid.

Under subsection (3) of Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'), the authority to sanction the lease or licence in respect of any property or any right or interest thereon belonging to any charitable or religious institution or endowment, the manner in which and the period for which such lease or licence shall be such as may be prescribed. In exercise of the powers under Section 153(1) read with Section 82 of the Act, the Government promulgated the Rules vide G.O.Ms.No.866, Revenue (Endowments-I) Department, dated 08.08.2003. As per Rule 3 thereof, all leases or licenses shall be made by way of public auction, and such public auction shall be held at the place where the properties are situated or rights exist. The Rules also provide that no lease or licence shall exceed a period of three years. There is no rule enabling either the first respondent or the second respondent to deviate from the procedure and grant fresh lease or renewal of lease to the same lessee, otherwise than by public auction. The second respondent acted within the legal framework, and the impugned auction notice is unassailable.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

22.03.2007
vs